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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[02 June 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The UN Human Rights Council must urge states to take a gender-sensitive approach to combatting arbitrary killings[1]

Amnesty International welcomes the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, which emphasizes the need for States, the United Nations and civil societies to take a gender-sensitive approach to combatting arbitrary killings and realizing the right to life.

Studies indicate that violations of women's rights, including in relation to gender-based killings, have historically been less visible in the international human rights treaty system such as through complaints before treaty bodies. Continued efforts are required to ensure human rights standards and mechanisms, including those related to the right to life, are equally responsive to the violations that women face. Special effort must likewise be taken to ensure the experience of LGBTI people are addressed.

In line with the Special Rapporteur's findings, Amnesty International re-affirms four essential elements of a gender-sensitive approach to combatting arbitrary killings and realizing the right to life, which require particular attention.

A gender-sensitive approach must address gender-based killings by both State and non-state actors

Women and LGBTI people continue to be targeted for killings by state actors, including for transgression of gender-norms or because of their sexual orientation.

However, as noted by the Special Rapporteur, studies estimate that almost half of the global homicides of women are carried out by intimate partners or family members. So called "honour" crimes, typically carried out by family members, disproportionately target women and LGBTI people.

Amnesty International has also documented patterns of killings and attacks of women and LGBTI people by armed actors and criminal gangs motivated by discriminatory attitudes and/or a climate of impunity for such acts.

States' obligations to act with due diligence to protect individuals from violence by non-state actors are well established in human rights law. Loss of life resulting from the failure to comply with those obligations may constitute arbitrary deprivation of life.

States must take preventive measures to protect life, including by adopting the necessary laws and practices to prohibit gender-based killings. To be effective, relevant laws should also be accompanied with a range of broader measures such as training for police, prosecutors and judiciary; protection and support for potential victims, and awareness raising about their rights and the law.

Crucially, as highlighted by the Special Rapporteur, States must also address the root causes of gender-based violence. Amnesty International has consistently documented that negative gender stereotypes, economic, social and cultural marginalization, and other forms of disempowerment and exclusion, increase women and LGBTI people's risk of being unlawfully killed.

Firearms are the principal mechanism of intimate partner homicide in countries with high rates of firearm ownership. USA focused studies indicate that the presence of a firearm in the home increases the risk of women being killed by intimate partners. Efforts to prevent intimate partner homicides should therefore include the adoption of strict laws and practices to prohibit access to firearms in situations where there is a risk of intimate partner violence.

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1 A fully footnoted version is available at https://www.amnesty.org/en/documents/ior40/6394/2017/en/

States are required to take all preventive operational measures that can be reasonably expected of them to protect an individual whose life is at risk. In addition to their obligations in relation to individual cases, the Inter-American Court of Human Rights has required that, where a State becomes aware of a pattern of violence against women, it must adopt a "general policy" to address it.

States must bring all those suspected of criminal responsibility for gender-based crimes to justice in fair trials without recourse to death penalty. In addition, providing for universal jurisdiction, as pointed out by the Special Rapporteur, is also an important tools that states should enact and enforce.

A gender-sensitive approach must embrace the links between the right to life and socio-economic rights

Regional human rights courts and UN human rights treaty bodies have recognized that insufficient availability or accessibility of economic and social goods, such as health care or food, may constitute a violation of the right to life where affected individuals lives are put at risk.

The importance of these connections in promoting a gender-sensitive approach to the right to life is evident for example in studies of mortality patterns during armed conflicts. While men are more likely to die as a result of violence during hostilities, women are more likely to die as a result of socio-economic factors such as infectious diseases, malnutrition and maternal mortality. A more expansive view of the right to life is essential to capture the experiences most relevant to women.

Amnesty International has documented how women face numerous barriers accessing maternal healthcare, contributing to high rates of maternal mortality in a number of country contexts. The organization has likewise documented how barriers to other forms of lifesaving healthcare may disproportionately affect women.

The criminalization of abortion compels women and girls to undergo illegal abortions and as such many die as a result of clandestine and unsafe abortions. Women and girls may also be denied access to health care for serious medical conditions on the grounds that treatment may damage the foetus. Amnesty International welcomes the Special Rapporteur's consideration of the issue of death resulting from deliberate denial of access to life-saving medical care because of an absolute legal ban on abortion, as an arbitrary killing.

A gender-sensitive approach must be intersectional

As noted by the Special Rapporteur, additional forms of discrimination strongly affect or compound the violations women or LGBTI people face, including on the basis of race, indigenous and minority status. This must be recognized and addressed in policy-making.

Homicide rates are often higher for women who experience intersectional discrimination. Amnesty International has documented how indigenous women are pushed deeper into unsafe living and working environments, and are targeted particularly because of racist or sexist attitudes, or higher levels of impunity for such crimes. It has also documented how LGBTI individuals face intersectional discrimination, including on the basis of socio-economic status, that affects their ability to protect themselves from homophobic violence.

People facing gender and other intersectional forms of discrimination, especially on the basis of migrant status, and race, may also fear deportation, arrest or violence by State authorities, including the police.

Intersectional forms of discrimination may also undermine women's access to healthcare, resulting in significantly higher mortality rates for affected women. Affected women may for example face discriminatory attitudes, and linguistic or cultural barriers, and be more likely to struggle to afford any costs involved in obtaining medical treatment.

A gender-sensitive approach must recognize secondary victimization

As noted by the Special Rapporteur, women are particularly affected by the extrajudicial killing of their partners and other family members. Amnesty International has documented how women are frequently left to confront the associated stigma, fear, insecurity and economic deprivation, in addition to the burdens of seeking justice.

Human rights treaty bodies and regional courts are increasingly recognizing that in certain circumstances where individuals have suffered mental harm as a result of the enforced disappearance of family members, or forced to watch family members being tortured there is a violation of the prohibition on torture and ill-treatment. The harm experienced by individuals with close bonds to other victims of right to life violations must be systematically recognized and redressed.

Recommendations to the thirty-fifth regular session of the Human Rights Council

Amnesty International recommends that the Human Rights Council:

- Calls upon States to implement the recommendations in the report of the Special Rapporteur so as to ensure a gender-sensitive approach to their efforts to combat arbitrary killings and realize the right to life
- Calls upon States to ensure that they take a gender sensitive approach in their reporting to human rights mechanisms, including in relation to reporting on right to life violations, and engage with and support organizations addressing gender-based violations of the right to life
- Calls upon UN bodies and civil societies to uphold and reaffirm the principles listed above and in the Special Rapporteur's report in their standard setting and decision-making.